



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105-3901

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ENVIRONMENTAL PROTECTION

Nevada
Environmental Protection

Matthew DeBurle
Supervisor, Permitting Branch
Nevada Bureau of Air Pollution Control
901 S. Stewart St., Suite 4001
Carson City, Nevada 89701

JAN 30 2008

BAPC / BAQP

Dear Mr. DeBurle:

Thank you for the opportunity to review the Bureau of Air Pollution Control's ("BAPC") proposed Operating Permit to Construct for the Ely Energy Center, a 1500 MW coal-fired power plant to be located near Ely, NV in White Pine County.

We have enclosed our comments. Please contact Roger Kohn at (415) 972-3973 or kohn.roger@epa.gov if you have any questions concerning our comments.

Sincerely,

Gerardo C. Rios
Chief, Permits Office
Air Division

Enclosure

cc: Starla Lacy, Nevada Power

**EPA Region 9 Comments
BAPC Draft Operating Permit to Construct
Ely Energy Center**

1. During the public comment period for EPA's proposed PSD permit for the Desert Rock Energy Facility, we received data from Texas Genco's W.A. Parrish facility in Texas. That data indicates that a NO_x emission limit lower than BAPC's proposed BACT limit of 0.06 lb/MMBtu (24-hour average) may be achievable. EPA recommends that BAPC evaluate this data and determine if a lower NO_x BACT emission limit is achievable at the Ely Energy Center.
2. The BACT limits in the draft permit do not include lb/hr emission limits for PM, PM-10, NO_x, CO, and SO₂. (There are such limits in the permit but NAC 445B.305, which is not in the SIP, is cited as the authority, not BACT.) BACT should also include short-term lb/hr limits to ensure that the BACT limits are practically enforceable and so that appropriate limits apply at lower loads during startup and shutdown. Such short term lb/hr limits would also make the necessary source tests more practical, and reinforce the source's obligation to operate its control devices properly at all times. In addition, the NO_x, CO, SO₂, PM and PM-10 lb/hr limits were used as modeling inputs by the applicant, and therefore should be part of the BACT determinations.
3. BAPC's Class I Application Review document states:

"It is BAPC's position that BACT for SO₂ emissions from a PC Boiler located in the western United States is dry scrubbing. SPRC's proposed use of wet scrubbing to control SO₂ emissions from a PC Boiler is above and beyond BACT technology, and may, more appropriately, be considered LAER technology."

EPA would like to clarify that there is no difference between a LAER emission limit and the lowest emission rate in step one of a top-down BACT analysis. BACT differs from LAER in that energy, environmental, and economic impacts may be taken into account and used to justify the elimination of the LAER emission rate(s). Since the applicant and BAPC have chosen the most stringent emission limit from the top-down analysis, that limit is BACT (and would also be LAER if the project were located in an SO₂ nonattainment area). BAPC should revise its statement on SO₂ BACT for the PC boilers in the Application Review document.
4. BAPC's Application Review document does not identify New Source Performance Standard (NSPS) Subpart OOO as an applicable requirement in the NSPS discussion on page 22. EEC's application identifies Subpart OOO as an applicable requirement for its lime processing operations (page 33 of Volume I of application). Although BACT limits cannot be less stringent than the applicable NSPS, BAPC is not obligated to include NSPS requirements in the PSD permit. But since other NSPS requirements have been incorporated and it appears that BAPC's intent is to include all NSPS requirements at this stage, BAPC may want to include the Subpart OOO requirements for the sake of consistency.

5. BAPC may want to consider adding a condition requiring the permittee to submit an Acid Rain application. For new units, an initial Acid Rain permit application must be submitted to the Title V permitting authority 24 months before the date the unit commences operation (40 C.F.R. 72.30(b)(2)(ii)). Since this is well before the deadline to submit a Title V application (within 12 months of commencing operation), BAPC and EEC may find it useful to have this requirement clearly identified in the pre-construction permit.
6. EPA has determined that this PSD permitting action for EEC triggers an evaluation of EPA's obligations under Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and its implementing regulations at 50 CFR Part 402. Since EPA has delegated its PSD authority to BAPC, the PSD permit that that BAPC will issue to EEC is considered a federal action, and cannot be issued until EPA has fulfilled its obligations under ESA Section 7. EPA is currently evaluating whether initiation of consultation is required for this action. If EPA determines that EPA's action (i.e., permit issuance) may affect a listed species, or result in the destruction or adverse modification of designated critical habitat (or affect a species proposed for listing or habitat proposed to be designated as critical) EPA will consult (or confer) with the appropriate Service, e.g., the U.S. Fish and Wildlife Service (FWS). The Bureau of Land Management (BLM) has prepared an EIS for the Ely Energy Center Project, and an environmental assessment that analyzed potential impacts to FWS listed species at the South Plant Site, which concluded that no impacts to federally listed species would occur from the proposed soil boring activities at the South Plant Site. On October 22, 2007, FWS issued to BLM a species list for the entire proposed project, extending from Interstate-80 in Elko County to near Interstate-15 in Clark County, Nevada. The project applicant has provided EPA with information indicating that listed species of potential concern for this project were either addressed in the BLM environmental assessment (that concluded no effect to federally listed species) or do not occur within White Pine County. EPA is currently analyzing the information gathered as part of the BLM process, and we are in the process of determining whether we need additional information. We shall keep you informed as we determine our obligations under ESA Section 7.